

## 1 UNITED STATES DISTRICT COURT

## 2 DISTRICT OF NEVADA

3 BENJAMIN ESPINOSA,

Case No. 2:23-cv-00125-GMN-BNW

4 Plaintiff

## ORDER

5 v.

6 CALVIN JOHNSON, et al.,

7 Defendants

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## I. DISCUSSION

10 On January 24, 2023, Plaintiff Benjamin Espinosa, an inmate in the custody of the  
 11 Nevada Department of Corrections (“NDOC”), filed an application to proceed *in forma*  
 12 *pauperis*. (ECF No. 1). However, Plaintiff’s application to proceed *in forma pauperis* was  
 13 incomplete and Plaintiff did not submit an application on this Court’s approved form. (*Id.*)  
 14 The Court granted Plaintiff leave to file a fully complete application to proceed *in forma*  
 15 *pauperis*. (ECF No. 3). Instead, Plaintiff filed a motion for reconsideration asserting that  
 16 he was having difficulty getting the required documents from inmate accounting. (ECF  
 17 No. 4). The Court granted Plaintiff an extension of time. (ECF No. 5). Plaintiff once again  
 18 moves for an extension of time and asks the Court to order inmate accounting to provide  
 19 him with a financial certificate and inmate accounting statement. (ECF No. 6).

20 The United States District Court for the District of Nevada must collect filing fees  
 21 from parties initiating civil actions. 28 U.S.C. § 1914(a). The fee for filing a civil-rights  
 22 action is \$402, which includes the \$350 filing fee and the \$52 administrative fee. See 28  
 23 U.S.C. § 1914(b). “Any person who is unable to prepay the fees in a civil case may apply  
 24 to the court for leave to proceed *in forma pauperis*.” Nev. Loc. R. Prac. LSR 1-1. For an  
 25 inmate to apply for *in forma pauperis* status, the inmate must submit **all three** of the  
 26 following documents to the Court: (1) a completed **Application to Proceed *in Forma***  
 27 **Pauperis for Inmate**, which is pages 1–3 of the Court’s approved form, that is properly  
 28 signed by the inmate twice on page 3; (2) a completed **Financial Certificate**, which is

1 page 4 of the Court's approved form, that is properly signed by both the inmate and a  
 2 prison or jail official; and (3) a copy of the **inmate's prison or jail trust fund account**  
 3 **statement for the previous six-month period**. See 28 U.S.C. § 1915(a)(1)–(2); Nev.  
 4 Loc. R. Prac. LSR 1-2. *In forma pauperis* status does not relieve an inmate of his or her  
 5 obligation to pay the filing fee, it just means that the inmate can pay the fee in installments.  
 6 See 28 U.S.C. § 1915(b).

7 As explained above, Plaintiff has not submitted a fully complete application to  
 8 proceed *in forma pauperis*. Plaintiff still has not submitted pages 1 through 3 of this  
 9 Court's form application and has not submitted a completed financial certificate and an  
 10 inmate account statement for the previous six-month period. The Court grants Plaintiff's  
 11 motion in part and denies the motion in part. The Court grants Plaintiff **until June 29,**  
 12 **2023**, to submit a fully complete application to proceed *in forma pauperis* to this Court.  
 13 The Court will not order the NDOC to provide Plaintiff those documents at this time.  
 14 Plaintiff will need to go through the proper prison procedures to request such documents.  
 15 If Plaintiff continues to have difficulties obtaining a completed financial certificate and an  
 16 inmate account statement for the previous six-month period, Plaintiff will need to include  
 17 a copy of a recent<sup>1</sup> inmate request seeking those documents from NDOC accounting  
 18 before seeking another extension. The Court notes that Plaintiff is capable of submitting  
 19 pages 1 through 3 of the form application to this Court without intervention from NDOC  
 20 accounting.

21 **II. CONCLUSION**

22 For the foregoing reasons, it is ordered that the motion for extension of time (ECF  
 23 No. 6) is granted in part and denied in part. The Court grants an extension of time to file  
 24 a complete application to proceed *in forma pauperis* but denies the request to order  
 25 NDOC inmate accounting to produce specific documents.

26 It is further ordered that the Clerk of the Court will send Plaintiff the approved form  
 27 application to proceed *in forma pauperis* by an inmate, as well as the document entitled

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28 <sup>1</sup> Inmate requests from October 30, 2022, are not recent. (See ECF No. 1 at 7).

1 information and instructions for filing an *in forma pauperis* application.

2 It is further ordered that Plaintiff has **until June 29, 2023**, to either pay the full \$402  
3 filing fee or file a fully complete application to proceed *in forma pauperis* on this Court's  
4 approved form.

5 Plaintiff is cautioned that this action will be subject to dismissal without prejudice if  
6 Plaintiff fails to timely comply with this order. A dismissal without prejudice allows Plaintiff  
7 to refile the case with the Court, under a new case number, when Plaintiff can file a  
8 complete application to proceed *in forma pauperis* or pay the required filing fee.

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10 DATED: May 15, 2023

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UNITED STATES MAGISTRATE JUDGE

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